

SEP 15 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

BUTTA SINGH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-72826

Agency No. A96-138-338

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted September 11, 2006**

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

Butta Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") decision dismissing his appeal from an Immigration Judge's ("IJ") denial of his application for asylum and withholding of

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal, and request for relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence an adverse credibility finding and will uphold the IJ’s and BIA’s decisions unless the evidence compels a contrary conclusion. *Malhi v. INS*, 336 F.3d 989, 992-93 (9th Cir. 2003). We deny the petition.

Substantial evidence supports the IJ’s and BIA’s adverse credibility finding based on Singh’s submission of two versions of an affidavit that were purported to be identical and sent to him in the same envelope, but instead contained significant inconsistencies. *See Zahedi v. INS*, 222 F.3d 1157, 1165 (9th Cir. 2000); *see also Li v. Ashcroft*, 378 F.3d 959, 962-63 (9th Cir. 2004) (inconsistencies that go to the heart of the claim support an adverse credibility finding).

Because Singh failed to establish eligibility for asylum, he necessarily failed to meet the more stringent standard for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Singh’s claim under the CAT is based on the same testimony that the IJ found not credible, and he points to no other evidence that he could claim the IJ should have considered in making its CAT determination, his CAT claim also fails. *See id.* at 1157.

PETITION FOR REVIEW DENIED.